

IN THE MATTER OF THE  
DENIAL OF THE LICENSING  
AUTHORITY OF:

HEARING NO. 09-HR-0751

MICHAEL D. REYNOLDS

### ORDER

I, Michael T. McRaith, Director of the Illinois Department of Insurance, hereby certify that I have read the Record in this matter and the hereto attached Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer, Timothy M. Cena, appointed and designated pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402) to conduct a Hearing in the above-captioned matter.

I, Michael T. McRaith, Director of the Illinois Department of Insurance, being duly advised in the premises, do hereby adopt the Findings of Fact, Conclusions of Law and Recommendations of the Hearing Officer as my own, and based upon said Findings, Conclusions and Recommendations enter the following Order under the authority granted to me by Article XXIV and Article XXXI of the Illinois Insurance Code (215 ILCS 5/401 et. seq. and 215 ILCS 5/500-5 et. seq.) and Article X of the Illinois Administrative Procedure Act (5 ILCS 100/10-5 et. seq.).

This Order is a Final Administrative Decision pursuant to the Illinois Administrative Procedure Act (5 ILCS 100/1-1 et seq.). Further, this Order is appealable pursuant to the Illinois Administrative Review Law (735 ILCS 5/3-101 et seq.).

**NOW IT IS THEREFORE ORDERED THAT:**

- 1) The application for an Illinois Insurance Producer's License by Michael D. Reynolds is denied; and
- 2) The Respondent shall pay, within 35 days of the date of this Order, as costs of this proceeding, the sum of \$369.35, directly to the Illinois Department of Insurance, 320 W. Washington, 4th Floor, Springfield, Illinois 62767.

ILLINOIS DEPARTMENT OF  
INSURANCE

Date: 18 March 2010

A handwritten signature in black ink, appearing to read "Michael T. McRaith", written over a horizontal line.

Michael T. McRaith  
Director

# STATE OF ILLINOIS

## DEPARTMENT OF INSURANCE



IN THE MATTER OF THE  
DENIAL OF THE LICENSING  
AUTHORITY OF:

HEARING NO. 09-HR-0751

MICHAEL D. REYNOLDS

### FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATIONS OF THE HEARING OFFICER

Now comes Timothy M. Cena, Hearing Officer, in the above-captioned matter and hereby offers his Findings of Fact, Conclusions of Law and Recommendations to the Illinois Director of Insurance.

#### FINDINGS OF FACT

- 1) On June 3, 2009, the Illinois Director of Insurance, Michael T. McRaith (Director), issued a Letter of Denial denying the application of Michael D. Reynolds (Respondent) for licensing as an Illinois Insurance Producer (Hearing Officer Exhibit # 1).
- 2) On July 6, 2009, the Illinois Department of Insurance (Department) received, from the Respondent, a Request for Hearing on the Letter of Denial (Hearing Officer Exhibit # 2).
- 3) On July 28, 2009, the Director issued a Notice of Hearing in this matter pursuant to the Respondent's Request, setting a Hearing date and location of September 2, 2009, at the Department's Offices in Chicago, Illinois at the James R. Thompson Center (Hearing Officer Exhibit # 2).
- 4) On July 28, 2009, Louis Butler filed a Notice of Appearance as Counsel in this matter on behalf of the Department (Hearing Officer Exhibit # 2).
- 5) On July 28, 2009, the Director issued an Order appointing Timothy M. Cena as Hearing Officer in this proceeding (Hearing Officer Exhibit # 1).

- 6) The Hearing in this matter was convened on September 2, 2009 at 9:37 a.m. at the Department's Offices in Chicago, Illinois at which time were present Timothy M. Cena, Hearing Officer; Louis Butler, on behalf of the Department; Michael Reynolds the Respondent, appeared Pro-Se; Christina Reynolds (the Respondent's spouse), appeared as a witness for the Respondent. Simone Arthur and Richard Nitka, employees of the Department, were present but did not testify.
- 7) The purpose of this proceeding was to determine the Respondent's eligibility to hold an Illinois Insurance Producer's License and to determine whether the Director's Letter of Denial denying the Respondent's application for licensing should stand.
- 8) In its case-in-chief, the Department, through Mr. Butler, offered Department Exhibits # 1-3 into the record:
  - a) Exhibit # 1 is a certified copy of a July 22, 1993 complaint and an August 3, 1993 indictment. Case Number 93 CF 1134 was filed in the 16th Judicial Circuit of Kane County, Illinois. The Respondent was charged with mob action, a Class 4 felony. Three individuals engaged in the gang fight were injured. Attached to Exhibit # 1 is a February 9, 1994 guilty plea entered by the Respondent. On February 9, 1994, a judgment order was entered sentencing the Respondent to 18 months of probation with a monthly probationary fee of \$8 when unemployed and \$25 if employed. Additionally, the Respondent was assessed costs of \$135, ordered to refrain from gang activity, contact with gang members, and prohibited from contacting the complainants;
  - b) Exhibit # 2 is a certified copy of a December 16, 1994 complaint and a January 17, 1995 indictment. Case Number 94 CF 2321 was filed in the 16th Judicial Circuit of Kane County, Illinois. The Respondent was charged with unlawful possession of a controlled substance (less than 15 grams of cocaine), a Class 4 Felony. Attached is a guilty plea by the Respondent. A judgment order was entered on December 18, 1995, sentencing the Respondent to two-years in the Department of Corrections;<sup>1</sup>

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<sup>1</sup> This sentence was to run consecutively with terms imposed by the Kane County Circuit Court Cases 94 CF 1947, unlawful possession of a firearm by a felon (it is not represented in the Department's record as

- c) Exhibit # 3 is a certified copy of a December 19, 1999 complaint<sup>2</sup> and a February 2, 2000 indictment. Case Number 99 CF 3327 was filed in the 16th Judicial Circuit of Kane County, Illinois. The Respondent was charged with the unlawful possession of a controlled substance (15 grams or more but less than 100 grams) with the intent to deliver, a Class X Felony. Attached is a guilty plea by the Respondent. A judgment order was entered on March 2, 2001, sentencing the Respondent to 4 days in the Kane County Jail, 36 months of probation with a probation fee of \$25. Additionally, the Respondent was assessed a drug fine of \$100, a \$1,000 statutory assessment, costs of \$135, a \$100 drug testing fee, and a \$50 lab fee.

9) The Respondent, Michael Reynolds, testified in a narrative form in this matter as follows:

- a) The Respondent offered Respondent's Exhibit # 1 into record. This Exhibit contains a packet of 11 reference letters supporting the Respondent's application for licensing. The Respondent submitted several letters from clients, peers, and long time friends.
  - i. His mortgage clients found him eager to assist and stated that he regularly went beyond the scope of his duties providing additional assistance for free when others would have charged.
  - ii. His peers wrote that he was a hard worker, a knowledgeable mortgage broker, and they frequently referred clients to him. Many said they were unaware of the Respondent's past until he asked them to write letters on his behalf.
  - iii. Several people who knew the Respondent during his preteens and young adulthood submitted letters which, distinguish his past

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one of the felonies supporting the denial of the Respondent's licensing application), and 93 CF 1134, identified as Department Exhibit # 1.

<sup>2</sup> The complaint and indictment initially refer to a Bryan J. Reynolds. However, this was corrected to implicate the Respondent, Michael Reynolds.

behavior from his current disposition. They acknowledged that the Respondent made poor decisions in his youth but believe that he has changed considerably and commend his ability to move forward. They described him as being reliable, loyal, and devoted to his family;

- b) The Respondent testified that he was apprehended with a firearm sometime around October 20, 1994 (94 CF 1947). The Respondent received a two year conviction which was served consecutive to 93 CF 3411 and 94 CF 2321;
- c) The Respondent does not dispute the three felony convictions which are the bases of this denial. He testified that he made a mistake. He grew up in a rough neighborhood in Aurora and associated with the wrong crowd;
- d) In 1991, shortly before he started getting into trouble, his parents were divorced. The Respondent stated that his parents went their separate ways. His brother went to live with their grandmother and he, as he put it, was "left to the wolves;"
- e) In 1991, he joined a street gang called Insane Vice Lords;
- f) The Respondent attended East Aurora High School. He did not graduate. In prison he earned his GED;
- g) The Respondent testified that his sentences for all three cases<sup>3</sup> totaled seven years. He served consecutive sentences, totaling 36 months, in the Department of Corrections. The Respondent entered prison on July 5, 1995 and was released on August 14, 1997. With good time, he completed his sentence in 23-and-a-half months;
- h) The Respondent testified that he was carrying his younger brother's, Bryan J. Reynolds,<sup>4</sup> I.D. when he was arrested on December 19, 1999. In case

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<sup>3</sup> The three cases the Respondent is referring to include the February 2, 2000 indictment (Case Number 99 CF 3327), a charge for the possession of a firearm by a felon.

<sup>4</sup> Bryan currently lives with the Respondent.

99 CF 3327, the Respondent was charged with the unlawful possession of a controlled substance with the intent to deliver;

- i) The Respondent testified that he and his younger brother, Bryan Reynolds, look very similar. He stated that Bryan is 29. The Respondent is now 34;<sup>5</sup>
- j) The Respondent testified that in 1995, before entering prison, he left the gang;
- k) Shortly after he started his sentence, the Respondent and his girlfriend (now his wife Christina Reynolds) had a child;
- l) In prison, the Respondent took parenting classes and college level courses;
- m) While in prison, the Respondent came close to earning his associates degree but he completed his sentence before he finished the program. Upon leaving prison, the Respondent took an array of classes at Waubonsie Community College, however, he did not earn a degree;
- n) The Respondent stated that when he was released from prison he went back to Aurora and although he was faced with the same pressures as before he was able to stay out of trouble;
- o) The Respondent testified that he and his wife have been together for 15 years and married for 10 years. When they met in 1994, she was aware of his conviction. They have three children together ages 14, 11, and 6;
- p) The Respondent testified that he had trouble finding people who knew him before he went to prison to write letters of recommendations because he no longer associated with many of the people from his past;
- q) He stated that he has worked hard to make sure that his kids have a better life;

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<sup>5</sup> The Respondent was born on 10/25/75. At the time of his first offense, in 1993, he was approximately 18 years old. He was 19 years old in 1994, the year of his second offence, and 24 years old in 1999 when he was charged with his third offence.

- r) In 1999, the Respondent was arrested when he picked his cousin up from work.<sup>6</sup> The Respondent testified that, unbeknownst to him, his cousin was in possession of contraband. He only realized his cousin was carrying the substance after police pulled them over and his cousin threw it out the window;
- s) The Respondent believes that the only reason the Class X felony resulted in such a light sentence was because he cooperated with authorities. He testified that his gang involvement had been substantial, he learned a lot about what was happening on the streets, and he had a lot of street credibility;
- t) The Respondent stated that his deal with law officials is no longer in effect. However, on other occasions, he has helped the Kane County sheriff, Pat Perez, (who was responsible for sending the Respondent to prison) with other cases. The Respondent further added, that at one point, Pat Perez provided him with a job referral to a bank;
- u) The Respondent testified that most of his peers and clients do not know he is a convicted felon. He found it difficult to obtain letters of recommendations from these people since he would also need to explain his past convictions to them. He worries people will be reluctant to work with him in the future if they know about his past;
- v) The Respondent has paid his fines and completed his jail time. He did not complete his first probationary period because he went to prison. He successfully completed all subsequent probationary periods;
- w) No civil suits were brought against the Respondent by any of the victims;<sup>7</sup>
- x) Since his conviction, the Respondent received his mortgage license. His license was issued on

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<sup>6</sup> The Respondent was charged with the unlawful possession of a controlled substance with the intent to deliver, a Class X Felony.

<sup>7</sup> The Respondent's mob action conviction was the only crime which produced victims. In this instance there were three.

January 19, 2007. He testified that he was not required to participate in a formal hearing when he applied for his mortgage license. Instead, the Respondent was required to submit information detailing his criminal history. The Illinois Department of Financial and Professional Regulation (IDFPR) granted the Respondent's request for licensing subject to a two year probationary period which, the Respondent has successfully completed;

- y) The Respondent has never been disciplined by the IDFPR. He is currently active and in good standing;
- z) In response to questions concerning his application for his insurance producer's license the Respondent stated that he completed the application on his own. The Respondent failed to fill out a portion of the application regarding his job history. He said this was because he assumed the application was asking for his previous work experiences in the insurance industry (of which he had none) and not about his job history in general;
- aa) The Respondent testified that in 2003, he incorporated himself as a company called Mike's Rehab. At the time, he was doing work on houses and wanted to protect himself;
- bb) He worked for Access Mortgage Corp., from 2005 to 2009. While working on getting his mortgage license he managed and learned about the businesses operation. Eventually he learned how to process loans. The Respondent left Access Mortgage Corp. because the owner owed him money and, in the Respondent's opinion, had no intention of ever paying him;
- cc) Prior to 2006, the Respondent worked at short-term positions which spanned from six months to a year. He worked at a company called Emboss Graphics, a stereo shop, and another company called Flight Visions (which built heads up displays for F-14 fighter planes);

dd) In 1997, when the Respondent was released from prison, he worked for approximately two years at an auto body shop in Batavia called Neat Street Auto Body. Near the end of his employment with the body shop the Respondent began working on rehabbing buildings with his father.

10) Christina Reynolds testified on behalf of the Respondent as follows:

- a) Mrs. Reynolds stated that she is aware the Respondent has made mistakes in the past and those mistakes have adversely affected the family;
- b) She testified that the couples' 14 year old daughter does not know her father has been in trouble and that it is hard that the issue keeps coming up;
- c) Mrs. Reynolds is a licensed agent who owns her own insurance agency. She obtained her insurance license in July 2005 and she is licensed to sell life, health, property, and casualty in Illinois. She has owned an American Family Agency for 3 years. She has three employees who perform clerical tasks; none of her employees are licensed agents. Three other agents operate from the office but are not employed by Mrs. Reynolds;
- d) Mrs. Reynolds stated that she is a big part of the community and at first she was reluctant to agree to the Respondent become a part of her business. She was concerned the Respondent's convictions would negatively affect her company's image. However, she believes that the Respondent has changed and that a long time has passed since his convictions;
- e) Currently, the Respondent does not do anything at Mrs. Reynolds' insurance business. If he gets his license, Mrs. Reynolds plans to let him participate in the business;
- f) Mrs. Reynolds stated that the Respondent is a family man and he "does right" and takes care of his family. She just wants the family to be able to move forward;

- g) Prior to owning the agency, Mrs. Reynolds worked for Harris Bank in St. Charles as a personal banker and teller supervisor;
  - h) She met the Respondent in the summer of 1994. She was aware of his involvement in the gang. Mrs. Reynolds grew up in the same area as the Respondent and went to the same high school. She was not involved in gangs;
  - i) Mrs. Reynolds did not graduate from high school. She had her oldest child (her 14 year old daughter) when she was 15. She dropped out of school and works two jobs. The Respondent was incarcerated at this time;
  - j) Mrs. Reynolds received her GED from Waubonsie Community College, between 1999 and 2000. She has taken other courses but only those necessary for the area of her employment;
  - k) No disciplinary action has been taken against Mrs. Reynolds by the Department of Insurance.
- 9) Amicus Court Reporters, Inc. recorded the testimony taken in this proceeding and charged the Department \$369.35 for the Court Reporter's attendance and a transcript of the proceedings.

### **CONCLUSIONS OF LAW**

Based upon the above stated Findings of Fact and the Record in this matter the Hearing Officer offers the following Conclusions of Law to the Director of Insurance.

- 1) Timothy M. Cena was duly appointed Hearing Officer in this matter pursuant to Section 402 of the Illinois Insurance Code (215 ILCS 5/402).
- 2) The Director of Insurance has jurisdiction over the subject matter and the parties in this proceeding pursuant to Sections 5/401, 5/402, 5/403 and 5/500 – 70 of the Illinois Insurance Code (215 ILCS 5/401, 5/402, 5/403 and 5/500 – 70) and Section 10 – 65 (c) of the Illinois Administrative Procedure Act (5 ILCS 100/10 – 65 (c)).
- 3) The purpose of this proceeding was to determine the Respondent's eligibility to hold an Illinois Insurance Producer's License and to determine whether the Director's Letter of Denial denying the Respondent's application for licensing should stand.

In its Letter of Denial and Notice of Hearing, the Department alleged that the Respondent had been convicted of a felony, which is grounds for denial pursuant to Section 5/500-70 (a)(6) of the Illinois Insurance Code.

5/500-70(a) provides, inter alia:

*License denial, nonrenewal or revocation.* (a) The Director may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with this Section or take any combination of actions, for any one or more of the following causes:

(6) having been convicted of a felony;

Further, Section 500-30 of the Illinois Insurance Code provides, in part ". . . before approving the application, the Director must find that the individual, . . . has not committed any act this is a ground for denial, suspension, or revocation set forth in Section 500-70 . . . "

The Hearing Officer finds that the evidence presented in this matter by the Department indicates that the Respondent has been convicted of multiple felonies. The Hearing Officer further finds that the Illinois Director of Insurance has the statutory authority to deny an individual's application for licensing as an insurance producer if the applicant has been convicted of a felony and that the Director properly and correctly issued a Letter of Denial to the Respondent based on the Respondent's felony convictions in 1993, 1994, and 1999.

However, the Hearing Officer also finds that the purpose of the Hearing in this matter is to allow the Respondent to present evidence in mitigation and that the Director should consider such evidence prior to issuing a Final Order in this matter. A discussion of the Respondent's evidence and the Department Regulations regarding felony convictions by licensed insurance producers, or those seeking to be licensed, follows.

The Illinois Administrative Code, at 50 Ill. Adm. Code §2403, establishes standards for review of producer licenses or license applications with respect to those producers or applicants who have been convicted of a felony. Section 2403.30 provides a number of factors to be considered by the Director when determining the appropriate licensing action. Section 2403.30 provides as follows:

#### Review Standards

"Section 500-70 of the Illinois Insurance Code allows the Director to place on probation, suspend, revoke, or refuse to issue an insurance producer's license, levy a

civil penalty, or take any combination of the preceding actions when the producer has been convicted of a felony [215 ILCS 5/500-70(a)(6)]. When so reviewing producer licenses or license applications involving producers who have been convicted of a felony, the Director shall consider the following factors in determining the appropriate action:

- a) Nature and Severity of the Criminal Activity.
- b) Time Elapsed Since the Prior Criminal Conduct.
- c) Absence of Additional Criminal Conduct Since the Reported Felony.
- d) Multiple Offenses or Pattern of Criminal Conduct.
- e) Restitution.
- f) Proper Disclosure.
- g) Successful Completion of Sentence and Probationary Period.
- h) Rehabilitation.
- i) Nature of Work Performed by the Applicant or Producer.
- j) Any Other Facts or Circumstances Deemed Relevant by the Director."

Section 2403.30(a)-Nature and Severity of the Criminal Activity: "Violent criminals or sex offenders may be denied producer license privileges, as well as those convicted of crimes which are insurance related and/or involve untrustworthiness."

In 1994, the Respondent was convicted of mob action, a Class 4 Felony. During the commission of this crime by the Respondent three persons, all members of a rival gang, were injured. In 1995, the Respondent pled guilty to a Class 4 felony count of Unlawful Possession of a Controlled Substance (cocaine). The Respondent was sentenced to two years in prison for this conviction in 2001, the Respondent pled guilty to a third felony, Unlawful Possession of a Controlled Substance, (more than 15, but less than 100 grams of cannabis) a Class 1 Felony. Also, during the Hearing, and although not part of the basis for denial of the Respondent's producer's application, evidence was produced regarding the Respondent's fourth felony conviction in 1995 for Unlawful Possession of a Firearm. Respondent served a two year sentence for this conviction concurrently with one of his other convictions.

While the Hearing Officer considers all felonies to be serious in nature Section 2403.30(a) specifically mentions violent criminals, sex offenders and crimes involving insurance or untrustworthiness. The Respondent was convicted in 1994 of Mob Action a crime of violence in which three rival gang members were injured. The Hearing Officer finds that the Respondent has been convicted of a

crime which the regulation indicates should be of particular concern to the Director.

Section 2403.30(b)-Time Elapsed Since the Prior Criminal Conduct: "The greater the time period since the criminal conduct of the applicant or producer, the more leniency that is appropriate. When making this determination, the duration since the criminal activity should be proportionate to the severity of the criminal conduct."

The Respondent was convicted of four felonies in 1994, 1995 and 2001, a seven year period of time. Approximately nine years have passed since the last conviction, normally, in the Hearing Officer's opinion, a significant period of time. However, since the Respondent's criminal career also lasted for almost a decade and encompassed four separate felony convictions, the Hearing Officer finds that the Respondent's current extended period of non-criminal behavior is less persuasive.

Section 2403.30(c)-Absence of Additional Criminal Conduct Since the Reported Felony: "Continued criminal conduct of a lesser or greater nature, by the applicant or producer, should not be tolerated."

The Respondent has not committed any crimes since his last conviction in 2001.

Section 2403.30(d)-Multiple Offenses or Pattern of Criminal Conduct: "Those applicants and producers who engaged in repeated criminal conduct are a greater risk to the public."

The Respondent, over a seven year period was convicted on four separate occasions of felonies. The Respondent's gang related felonies and his repeat felony drug convictions establish a pattern. The Hearing Officer finds that the Respondent's multiple convictions and pattern of criminality should be of concern to the Director.

Section 2403.30(e)-Restitution: "Payment to the victim of the felony by the applicant or producer is necessary to both satisfy the court order and to demonstrate penitence."

The Respondent was not required, as a part of his sentencing, to pay restitution to the victims of his crime.

Section 2403.30(f)-Proper Disclosure: "Failure of the applicant or producer to fully cooperate or properly report the criminal activity to the Department does not reflect favorably on the applicant's character."

The Respondent truthfully reported his felony convictions to the Department on his application requesting Illinois Insurance Producer's License.

Section 2403.30(g)-Successful Completion of Sentence and Probationary Period: "The applicant's or producer's debt to society must be fully satisfied before he or she is granted any further privileges."

The Respondent successfully completed his prison time, required probationary periods, and paid his fines.

Section 2403.30(h)-Rehabilitation: "Post-conviction community service or charitable activity by the applicant or producer may serve as evidence of rehabilitation."

Illinois courts have addressed the issue of licensing individuals as insurance producers who have been convicted of felonies and state that licensing can be appropriate if, "...the individual demonstrates to the Director sufficient rehabilitation to warrant the public trust." Medley v. Dept. of Insurance, 223, 217 Ill. App. 3d 813 (4th Dist. 1992). The Court in Medley characterizes "sufficient rehabilitation" stating, "The type of rehabilitation required here is such that the licensee can be trusted to engage in selling and securing of insurance policies which may be intricate and may involve insureds or prospective insureds who lack sophistication in such matters." Id. The Court further states that a person seeking to show rehabilitation should appear contrite in nature and should indicate ways he or she had changed since the conviction.

The Hearing Officer finds that the Respondent appeared sincere in his presentation of evidence substantiating his rehabilitation. The Respondent appeared contrite and his evidence suggests that his life has dramatically changed since his convictions. Based on the record as a whole, the Hearing Officer finds that the Respondent has presented some evidence of rehabilitation since his convictions.

Section 2403.30(i)-Nature of Work Performed by the Applicant or Producer: "There is less risk when the work to be performed does not involve money transactions or direct contact with the public."

The Respondent will have direct contact with the public and possibly handle money if he is granted his insurance producer's license.

Section 2403.30(j)-Any Other Facts or Circumstances Deemed Relevant by the Director. "Letters of recommendation addressed to the Director, and attesting to the character and reputation of the applicant or producer, may be considered by the Director."

The Respondent submitted several letters of recommendations from friends attesting to his rehabilitation, good business practices, and devotion to his family. In order to obtain some of these letters the Respondent, despite the risk of public disgrace, disclosed his past to peers who were previously ignorant of his criminal history.

Based upon the evidence as a whole, the Hearing Officer finds that the evidence contained is insufficient to establish that the Director should diverge from his initial decision to deny the Respondent an Illinois Insurance Producer's License. The evidence clearly indicates that the Respondent has been convicted of four separate felonies, all of which are bases for the denial of the Respondent's application.

In the Hearing Officer's opinion, the insurance purchasing citizens of the State of Illinois may have a concern with purchasing insurance from a producer who, unknown to them, has been convicted of four felonies. There is no requirement in the law that a producer let prospective clients know about his/her past. The Hearing Officer opines that in the fact pattern of this case is such that the Director should give additional weight to the multiple conviction standard and the nature and severity of the crime standard contained in 50 Ill. Adm. Code 2403. While the Respondent performed well on several of the other standards contained in 2403, the Hearing Officer finds that the evidence presented regarding the two above-mentioned standards out weighs the other positive evidence presented by the Respondent.

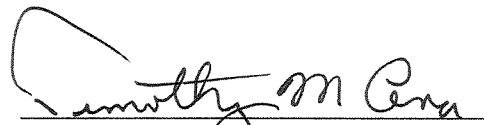
### **RECOMMENDATIONS**

Based upon the above stated Findings of Fact, Conclusions of Law and the entire Record in this matter the Hearing Officer offers the following Recommendations to the Director of Insurance:

- 1) That the Director's original Letter of Denial in this matter be affirmed; and
- 2) That the Respondent be assessed the costs of this proceeding in the amount of \$369.35.

Respectfully submitted,

Date: 3/15/10

  
Timothy M. Cena  
Hearing Officer